

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:25-CV-13-D

ELLIS MCKISSICK, et al.,

Plaintiffs,

v.

EMMETT CALDWELL,

Defendant.

ORDER

On a date prior to February 11, 2025, Ellis McKissick (“McKissick”) and Iola M. Stevens (“Stevens”) (collectively, “plaintiffs”), appearing pro se, filed a complaint in Dare County Superior Court against Emmett Caldwell (“Caldwell” or “defendant”) [D.E. 1]. On February 11, 2025, Caldwell, appearing pro se, removed the case to this court and moved to proceed in forma pauperis. See id.; [D.E. 2]. On February 13, 2025, the court denied without prejudice Caldwell’s motion to proceed in forma pauperis [D.E. 3].

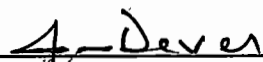
On March 18, 2025, Caldwell filed a “motion for 4c3 Service” [D.E. 5], a motion to vacate default judgment [D.E. 6], and a renewed motion for leave to proceed in forma pauperis [D.E. 7]. Pursuant to 28 U.S.C. § 636(b)(1), the court referred the matter to United States Magistrate Judge Jones for a memorandum and recommendation on Caldwell’s motions and for frivolity review of Caldwell’s notice of removal. See [D.E. 8]. On April 22, 2025, Magistrate Judge Jones issued a memorandum and recommendation (“M&R”) [D.E. 9]. In the M&R, Magistrate Judge Jones recommended that the court grant Caldwell’s motion to proceed in forma pauperis, remand the matter to Dare County Superior Court, and dismiss as moot Caldwell’s other motions. See id. at 1–5.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (cleaned up); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted). If a party makes only general objections, de novo review is not required. See Wells v. Shriners Hosp., 109 F.3d 198, 200 (4th Cir. 1997). In “order to preserve for appeal an issue in a magistrate judge’s report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.” Martin v. Duffy, 858 F.3d 239, 245 (4th Cir. 2017) (quotation omitted); see United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007).

Neither party objected to the M&R. Therefore, the court reviews for clear error. The court has reviewed the M&R and the record. There is no clear error on the face of the record. See Diamond, 416 F.3d at 315.

In sum, the court ADOPTS the conclusions in the M&R [D.E. 9], GRANTS Caldwell’s motion to proceed in forma pauperis [D.E. 7], REMANDS the case to Dare County Superior Court, and DISMISSES AS MOOT defendant’s motions for “4c3 service” and to vacate default judgment [D.E. 5, 6].

SO ORDERED. This 21 day of May, 2025.



JAMES C. DEVER III
United States District Judge